

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 24-20295-CR-BECERRA

UNITED STATES OF AMERICA,

Plaintiff,

v.

**BRAYAN TOCHON-LOPEZ,
WILMER MOISES BARSELO,
JOSE FELICIANO LEMOS,
JESUS RODRIGUEZ,
LUIS ANDRES ZUNIAGA,
JORGE LUIS LOPEZ-ASTUDILLO,
EULIDES OLIVEROS-LUGO, and
STIVEN JOSE FLORES,**

Defendants.

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**UNOPPOSED JOINT DEFENSE MOTION TO CONTINUE
TRIAL AND ASSOCIATED DEADLINES**

Brayan Tochon-Lopez, through undersigned counsel and joined by his seven codefendants in this case, respectfully requests a sixty (60) day continuance of trial and associated deadlines. The Government does not oppose this motion. In support, Mr. Tochon states the following:

1. The defendants in this case are charged by indictment with conspiracy to possess with intent to distribute cocaine while on board a vessel subject to United States jurisdiction, in violation of 46 U.S.C. § 70506(b) (count 1), and possession with intent to distribute cocaine while on board a vessel subject to United States jurisdiction, in violation of 46 U.S.C. § 70503(a)(1) (count 2). DE 14.

2. Trial was originally scheduled for August 26, 2024, with a calendar call on August 20, 2024. DE 25. Two of Mr. Tochon's codefendants have since filed motions to continue trial, and trial is now set for December 2, 2024, with a calendar call on November 26, 2024. DE 42.

3. Mr. Tochon and his codefendants hereby jointly request that this trial date be continued by sixty (60) days for the following reasons. *First*, undersigned anticipates filing a pretrial motion to dismiss that raises jurisdictional claims specific to this case, and submits that the requested continuance will allow time for the motion to be adjudicated with the benefit of the Eleventh Circuit's most recent relevant case law. The discovery indicates that the vessel in this case was interdicted approximately 15 nautical miles from the coast of Venezuela, *ie.* three nautical miles from that country's territorial waters. After receiving this information, the defense requested, received, and has been working to review additional relevant discovery and to investigate whether a motion is appropriate. As the Court is likely aware, in the recent appeal in *United States v. Alfonso*, Case. No. 22-10576, the appellants argued that the United States does not have jurisdiction over vessels interdicted within the "Exclusive Economic Zone" of another nation, and most appeals raising related jurisdictional issues were stayed pending issuance of the mandate in that case, which issued on October 21, 2024. *Id.*, at ECF No. 65, 77. In light of this, the defense respectfully requests time to file and litigate a motion based on the particular circumstances of this case, with the benefit of that latest Eleventh Circuit opinion on a separate but related issue. *Second*, the requested continuance would also account

for preplanned scheduling conflicts of the attorneys in this case. Specifically, undersigned will be out of the country on a preplanned trip from December 3, 2024, until the Christmas holiday. Additionally, co-counsel Frank Quintero has advised that he expects to be unavailable for approximately two weeks beginning on January 10, 2025, due to preplanned personal leave. Finally, AUSA Yvonne Rodriguez-Schack has indicated that she will be out of the office for the holidays until January 13, 2025.

4. The Government does not oppose the relief sought in this motion.

5. Wilmer Moises Barselo (represented by Marc Seitles), Jose Feliciano Lemos (represented by David Donet, Jr.), Jesus Rodriguez (represented by Roger Cabrera), Luis Andres Zuniaga (represented by Joseph Chambrot), Jorge Luis Lopez (represented by Frank Quintero), Eulides Oliveros-Lugo (represented by Jose Batista), and Stiven Jose Flores (represented by Dianne Caramés) have all represented through counsel that they join in this motion.

6. Mr. Tochon acknowledges that pursuant to 18 U.S.C. § 3161, the period of this continuance will be excluded from the computation of applicable time for purposes of the Speedy Trial Act. A signed waiver will follow.

7. This motion is being filed in good faith and will not cause undue delay.

8. A proposed order is attached and will be emailed to chambers.

WHEREFORE, Mr. Brayan Tochon-Lopez, joined by his codefendants and without opposition from the Government, respectfully requests that the Court GRANT his unopposed motion to continue trial by sixty (60) days, and to continue associated deadlines accordingly.

Respectfully Submitted,

HECTOR DOPICO
INTERIM FEDERAL PUBLIC DEFENDER

BY: *s/Srilekha Jayanthi*
Assistant Federal Public Defender
Special Bar No. A5502728
150 W. Flagler Street, Suite 1700
Miami, Florida 33130-1556
(305) 530-7000/ (305) 536-4559, Fax
E-Mail: srilekha_jayanthi@fd.org

CERTIFICATE OF SERVICE

I HEREBY certify that on **November 18, 2024**, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Srilekha Jayanthi